



Joint Committee of the Senate and the House of Commons

ON

# CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

*Joint Chairmen:*—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

TUESDAY, MARCH 15, 1955

## WITNESSES:

*Representing The Retail Merchants Association of Canada, Inc.:*

Mr. C. Irving Keith, Q.C., Solicitor; Mr. D. A. Gilbert, President and General Manager; and Mr. F. Arnold B. Rands, National Foods Division Consultant.

*Appendix A:* Trends in Comparative Sales of Chain and Independent Stores.

*Appendix B:* Extracts from the Criminal Code dealing with Trading Stamps.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1955.



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Hon. John W. de B. Farris	Hon. Arthur W. Roebuck
Hon. Muriel McQueen Fergusson	Hon. L. D. Tremblay
Hon. Salter A. Hayden	Hon. Clarence Joseph Veniot
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Mr. Yves Leduc	

A. SMALL,  
*Clerk of the Committee.*



## MINUTES OF PROCEEDINGS

TUESDAY, March 15, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. Mr. Don F. Brown, Joint Chairman, presided.

*Present:*

*The Senate:* The Honourable Senators Aseltine, Farris, Fergusson, Hodges, and Tremblay—(5)

*The House of Commons:* Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Johnston (*Bow River*), Lusby, Mitchell (*London*), Montgomery, Shipley (Mrs.), Valois, and Winch—(13).

*In attendance:*

*Representing The Retail Merchants Association of Canada, Incorporated:*

Mr. C. Irving Keith, Q.C., Winnipeg, Manitoba, Solicitor for the Association; Mr. D. A. Gilbert, Winnipeg, Manitoba, President and General Manager; and Mr. F. Arnold B. Rands, Toronto, Ontario, Consultant to the Association's National Foods Division.

*Counsel to the Committee:* Mr. D. G. Blair.

On motion of the Honourable Senator Fergusson, the Honourable Senator Farris was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

Mr. Cameron (*High Park*) having raised a question of privilege to the effect that newspaper reports erroneously and unfairly implied that the Committee has reached certain conclusions, the presiding chairman indicated on behalf of the Committee that the public should be informed that evidence will be taken for some time and, therefore, no final conclusions whatever have been reached.

The presiding Chairman called the delegates representing The Retail Merchants Association of Canada. Mr. Keith presented and read the brief of the association (copies of which were distributed to all present) relating to questionable methods of sales-promotion such as "give-aways", lotteries, draws, trading stamps, coupons, etc.

During the course of his presentation, Mr. Keith filed with the Committee the following:

1. Tables 1 and 2 (*see Appendix A*) analysing recent trends in comparative sales of chain and independent stores;

2. Copies of recent selected newspaper advertisements of lotteries, draws, "give-aways", etc.;

3. An advertisement by Canada Packers in the Canadian Grocer, published May 15, 1953, entitled "Dissa and Data" (copies of which were distributed to each member present).

During the course of the questioning period, it was agreed as follows:

1. That Sections 335 and 505 (new Code Sections 322 and 369) dealing with Trading Stamps be appended to today's proceedings. (*See Appendix B*);

2. That the association would submit to the Committee for consideration a draft of proposed amendments to the Criminal Code that would meet its requirements towards clarifying the relevant provisions of the Code.

The presiding Chairman expressed the Committee's appreciation to the association's delegation for the presentations made.

The witnesses retired.

At 1.15 p.m., the Committee adjourned to meet again as scheduled.

A. Small,

Clerk of the Committee.







## EVIDENCE

TUESDAY, March 15, 1955.

11.00 a.m.

The PRESIDING CHAIRMAN (*Mr. Brown, Essex West*): The committee will now come to order. A motion will be entertained to fill the chair from the Senate for the day.

Hon. Mrs. FERGUSON: I nominate Senator Farris.

The PRESIDING CHAIRMAN: All those in favour?

Contrary?

Carried.

The PRESIDING CHAIRMAN: Senator Farris, will you come forward please?

I might at this point advise members of the committee of the meeting on Thursday next, March 17, which is St. Patrick's day, to be held in this room at 11 a.m. The witness will be Professor S. K. Jaffary, of the school of social work, University of Toronto, and he will speak to us on the question of corporal punishment. Today we shall be hearing representations on behalf of the Retail Merchants Association of Canada.

Mr. CAMERON (*High Park*): Mr. Chairman, before we proceed, I want to rise on a question of privilege. I read in the Toronto newspapers a comment that some of the members of this committee had already made up their minds as to what attitude they should take with regard to certain matter which we are now discussing. I just wanted to say that, for myself, there is a lot of evidence to read, a lot of deep thinking to be done and a lot of consideration to be given to the matters before us before that stage is reached. As far as I am concerned, I have got an open mind and my mind is not made up one way or the other, as the newspapers have indicated.

I would like to say this to the newspapers, with the very kindest of feelings, that I do feel there is a certain amount of unfair inference here. We hope, on this committee, to do a job, and it is unfair to suggest that before the whole matter is clear we have already made up our minds. If that is the case there is very little use going further in dealing with some of the questions before us.

The CHAIRMAN: Thank you very much, Mr. Cameron. I have not seen the article in question, although it has been drawn to my notice. The Canadian Press drew it to my attention, and asked me if we had made any report or reached any decision, and I assured them that there had been no decision made by this committee, and that as a matter of fact there was considerable evidence to be heard yet and that there would be no report made to the House until such time as we had heard as much evidence as we thought was necessary on each of the three subjects under consideration.

However, I think the point is very well taken, and that it should be drawn to the attention of the public that this committee is still hearing evidence and that it has not come to any decision whatever on any of the matters before us.

If there is nothing further, then, we may proceed. We have before us today the Retail Merchants Association of Canada, who are going to make a presentation with respect to the subject of lotteries. I believe that in particular they



are going to discuss store coupons, giveaways, etc. The brief, unfortunately, was just given to us this morning, so members of the committee will not have had the opportunity of looking through it, but probably we could have the delegation go over the brief with us, and then we shall ask our questions.

The delegation consists of Mr. D. A. Gilbert, of Winnipeg, president of the association; Mr. F. A. B. Rands, Toronto, consultant to the Association's National Foods Division and Mr. Irving Keith, Q.C., Winnipeg, solicitor of the association.

If it is your pleasure, we will now proceed with the presentation. Will the delegation please come forward and take their seats at the end of the table?

Possibly we could digress for a moment to advise the subcommittee that there will be a further meeting of the subcommittee on agenda and procedure tomorrow at 4 o'clock, time and place to be designated later. Members will be advised.

Who is to be spokesman for the delegation—Mr. Keith?

Mr. KEITH: I have been elected, Mr. Chairman.

**Mr. Irving Keith, Q.C., Winnipeg, Solicitor of the Retail Merchants Association of Canada Inc., Called:**

The WITNESS: Mr. Chairman, Mr. Minister, members of the Senate and of the House, I have the honour to speak on behalf of the Retail Merchants Association of Canada and on behalf of the National Foods Division of the Retail Merchants representing over 40,000 retail merchants all across Canada.

These are voluntary, non-profit organizations, devoted entirely to the promotion of the welfare of retailers and the improvement of trade practices among their members.

The chief concern of our organizations is the betterment of the retail trade, and raising the standard of service to its customers and establishing and promulgating a high code of business ethics among all those who engage in the retail trade.

Since our objective is honesty and fairness in the retail field we should perhaps begin by admitting that while we have ideals, we (like other trades, groups and professions) do not always achieve our ideals. There are members and retailers who carry on trade practices which at the best are unethical, and not strictly equitable in the broad sense of the word. We regret it, and we try to do what we can to correct it. This is why our organizations exist.

I say these things because I feel that it is always best for people to make an effort to set their own house in order before calling on outside help. I simply wish to emphasize that our two organizations are engaged solely and exclusively in supervising, fostering and working for improved trade practices among their members.

Every trade, profession and calling I think affords its practitioners some particular advantage by means of which they can appraise human behaviour with a clearer insight than average. This is true of local merchants in the community. They are the first to feel the pinch of unemployment and they enjoy the benefits of fat payrolls. They can tell, almost at once of any drop in income by any individual customer or by the community generally. Likewise they are the first to see and know prosperity. The cash register of the local merchant is the economic thermometer of the community.

For this reason the retail merchant is very conscious of the various factors which cause fluctuations in the spending power or the spending habits of his customers.

It is for this reason that retail merchants, not only of this country but in all countries, oppose all forms of gambling. They as a group are opposed to horse racing, not because they pretend to virtues they do not possess, but because they know from actual experience the personal and family tragedies



which result from this activity. There is always a sharp rise in unpaid accounts when the races come to town. The reduced spending power continues for weeks after they are gone.

Perhaps this is outside of the matter which we are considering today, but I mention it to illustrate the attitude of merchants towards all forms of gambling. They are opposed to gambling in all forms and their opposition is founded upon actual experience.

One thing which has been the cause of concern in recent months is the question of give-aways, lotteries, trading stamps, coupons and other undesirable and discriminatory methods of sales promotion employed by various manufacturers, and distributors, and concurred in by some or many of the merchants, of which these all undoubtedly come under the heading of gambling.

Now it is all very well to say that the merchants could end these practices by flatly refusing to participate in them, but this solution is not really practical, because it only takes one defaulter to throw the whole trade into the game, and these things are so staged that in many cases the merchant is made a participant even against his will.

Very often the very people who carry on these practices are the ones who profess, anyway, to deplore them most, and who are most anxious to avoid them.

Why is this? Well the answer is simple. In the long run lotteries, draws, giveaways and similar "gimmicks" are expensive and uneconomical. This is the fundamental weakness of all lotteries. In Ireland and Australia, where state lotteries are conducted to support hospitals, it has now become clear that the great cost involved in the mechanics of printing, distributing tickets, collecting them, policing the draws, publicizing the whole thing and handling the vast number of small sums involved, is wasteful of manpower, materials and money. In the end it has brought a decreased return for the outlay. Furthermore, the hospitals in these countries have been no better supported, no better equipped and no better maintained than those of Canada and the U.S.A., where the necessary funds have been raised by direct levies or direct appeals for contributions.

The simplest and cheapest way of collecting money for worthwhile and worthy causes is for A to ask B for a contribution. The simplest and best way for a manufacturer to sell his product is to concentrate on the quality of his product, and on policies and practices which will reduce its cost price to the consumer. These things are the real essence of competition and the only true way the consumer can benefit in the long run.

The Retail Merchants Association and National Foods Division are in favour of and support every sound practice which will result in bringing goods to the consumer at the lowest possible cost. The simple fact is that lotteries, give-aways, prize draws and similar things are, in most instances, substitutes for a reduction in price. They are excuses which are often used for retaining the price of articles and actually replace possible reductions with such substitutes as T.V. sets, automobiles, radios, and so forth.

Now it is one thing to say that a practice is wasteful, extravagant or poor economics, and another to say that it is improper from a legal point of view. Many people spend both money and time on things that others regard as wasteful and foolish. That does not necessarily say that they are doing something which the law should prohibit.

Is this the case with lotteries, draws and give-aways, used in conjunction with sales promotion campaigns?

The answer is definitely "no". In the first place our Criminal Code has for many years condemned the practice of lotteries and gambling. Section 236 covers these offences and in general terms our law has always frowned upon both the practice and the practitioner.



How then, if this is the view of the people of this country, and I take it that it is since it has been on our statute books for many years and without serious objection, (except for those who have been caught and penalized), how can we then take exception to some people carrying on this sort of thing and shut our eyes while others do the same thing?

As people responsible for law, and the administration of law, this poses a very serious question. There is no doubt that disrespect for the law results from a disregard of the law and this is even more pronounced when the disregard is on the part of the administrators and legislators themselves.

In all seriousness, if lotteries and draws are improper at all they must, in the eyes of the law, be improper in all cases and for all peoples equally. To allow a distinction is to breed disrespect for our legal system and place our enforcement officials in an impossible position. These things are of vital importance—far outweighing the importance of the offence in itself. Their implications and their effects are far reaching and affect the very fabric of our social and political existence.

Having covered this most serious and general reason why these lotteries and give-aways should be outlawed I would now like to mention a few less general, but nonetheless valid, reasons for this view. These are the matters, I may say, which directly affect merchants, as merchants.

First of all it is most unfair competition for the smaller merchants, who make up the vast bulk of the retail distribution system of this country. And at this point perhaps it should be pointed out that retailing is still largely in the hands of the small independent merchant in Canada. I know we are all greatly impressed with the large supermarkets that we see springing up in our larger cities. They are impressive, not to say gaudy. They are, however, located in the highly concentrated areas where they skim the cream off the top of the market by means of volume sales at comparatively low prices, and with little or no service to the customer. (*See Tables 1 and 2 at Appendix A for analysis of comparative sales of Chain and Independent Stores*). Now do not get me wrong. I am not condemning supermarkets. Anything that can bring about a reduction in price to the consumer is good and the R.M.A. organizations are 100 per cent in favour of it. However, it should be pointed out that these outlets are comparatively few in number, restricted in location, and not quite as effective in reducing prices as their propaganda and publicity men would have us believe. As pointed out to the Restrictive Trade Practices Commission sitting in Ottawa last fall, the actual cost of doing business, as shown by the figures issued by the Department of Statistics of the Department of Trade and Commerce, is less for independent merchants than for chain stores. However, this factor is not really relevant to the point under discussion at the moment. The point is that the major part of the retail distribution of Canada is handled by small independent retail merchants and will undoubtedly continue to be so handled.

Yet when it comes to lotteries and give-aways, such as we find going on in many parts of this country, the independent Retail merchant is unable to compete with them, even if he wished to do so.

It is out of the question for the average, or even the above average, merchant to give away automobiles, television sets and radios. Neither his mark-up nor his sales volume allow such extravagances.

When the large chain organizations engage in this type of promotion it is simply out of the question for their competitors to compete. They are beaten before they start.

This is undoubtedly the reason why such promotions are used, with the knowledge that competition on the same basis is impossible.

The second factor which is pertinent is that such practices have a very detrimental effect on the article or product selected to be given away. The



prize, bonus or premium is usually a different article or product from the one or ones being promoted, because, of course, to give away the same article or product, or more of the same article or product, would simply be a reduction of its price, which is an acceptable policy provided it is applied to all outlets, or at least all outlets in a given area.

By using an article as a prize or bonus, the sponsor of the campaign or promotion produces a very detrimental effect upon the article or commodity selected as a give-away. There is nothing more harmful to the market value of an article, be it silverware, a T.V. set, or even an automobile, or a radio receiver, than to give it away free and to advertise it widely as a "gift".

It seems to produce a psychological effect upon the sale of that article which is very detrimental. In the Retail Merchants Association brief on loss leader presented to the Restrictive Trade Practices Commission, this was pointed out. Sales of the G.E. Electric iron, kettle and floor polisher were severely and apparently permanently injured in B.C., by the action of one large dealer using them as loss leaders, which is a less drastic practice by the way than giving them away free.

There is no redress for the manufacturer, distributor or retail dealer concerned with these "give-away" commodities if they are used in this way. It is a very unfair and destructive practice.

In the third place, in some cases, these give-aways produce a different kind of effect on the market. Take for example the practice which is followed in a good many centers on Thanksgiving or Easter, at Christmas or some other festive season, of raffling turkeys or holding "turkey shoots" and similar large scale promotions.

In London, Ontario, for example, according to newspaper reports, this form of activity disposed of some 3,000 turkeys at Christmas time. Those responsible for the promotion went out and bought turkeys directly from the farmers, paying them above the market price for them because they were at a premium and thereby boosted the price for the entire market.

A great many people who had ordered their Christmas turkey from their local meat store, cancelled their orders when they won a turkey and this left a heavy unsold quantity of turkeys in the butcher shops after Christmas.

It finally got to the point where protest meetings were held—I believe the Attorney-General of Ontario stepped in—and a full-scale show-down took place. This is only one illustration of what has gone on in many communities across the country and the adverse effect it has on the market.

I say nothing at all about the very real loss to the retailers in the loss of the sales, and the extra services they are obliged to perform in connection with these campaigns, but they are very real losses and very substantial.

Still another detrimental effect of this kind of practice is that it compels the merchant to "over service" the item or items which are being specially promoted. This can only be done at the expense of the other items carried in his inventory. For example, a company, say a soap manufacture, decides to give away something for coupons attached to its product. The dealer cannot afford to refuse to help the manufacturer in this since his competitors are all doing it, and his customers will go to his competitors for a "chance" at the "free" gifts, or special premiums or whatever it may be. The merchant has, therefore, whether he wants to or not, to put in special facilities for collecting and marking the coupons, taking the names and addresses of the customers, double checking the stock and dealing with enquiries, complaints and all the other machinery of the draw or give-away. All of this takes time for him or his clerks as well as space in his store. The promoter thereby, assures himself of special attention and compels extra and special work which other manufacturers represented in the store, do not get.



In this connection, I might quote a very interesting item from the Washington State Food Dealer, of January, 1955. "On reliable authority we have been informed that Safeway (i.e. U.S. Safeway) is backing up their threats to redeem all coupons at their cash value. This movement started around the first of the year and is the culmination of a long period of threats and proposals by the company to influence manufacturers to pay larger handling fees (or allowances)."

"It is worthy of note that Safeway's main contention is that the amount paid is not adequate to compensate them for the actual and true cost of handling—by their test, a cost of somewhere between 2½ cents and 3 cents per coupon."

That is what Safeway's in the United States figured it cost them to handle these coupons which the manufacturers put out. They said to the customer: "We will give you three cents credit for every coupon you bring in." Then they would throw the coupon in the waste basket, and simply pay the customer the three cents. Instead of spending time and money and worry in servicing these promotions, they paid up.

The PRESIDING CHAIRMAN: What started out as a lottery, ended up as a price reduction?

The WITNESS: So far as Safeway's are concerned. And they said: "It is costing us three cents to handle this, let us give it to the customer." What the ultimate outcome of this will be, I do not know.

Hon. Mr. GARSON: Perhaps the manufacturer will end up with a lot of lottery prizes which he cannot give away.

The WITNESS: This practice also produces another unfair advantage in favour of the manufacturer who employs it. There is only a certain market for any product which is sold and all manufacturers in the field must divide this market among themselves. When one manufacturer forces the merchants to accept and redeem coupons of various values he compels the merchant to stock up heavily on his product and to wait, in many cases, for a period of time to cash in or redeem the coupons. In this way he compels the merchant to "over stock" his product and thereby not only finance his campaign, but he automatically reduces the stock of his competitors which must be reduced to make room on the shelves and to finance his individual sales campaign.

This is also an unfair trade practice—coming close to compulsion. It is unfair to the merchant and to the other manufacturers.

Lingan A. Warren, President of Safeway's,—that is, U.S. Safeway's—speaking recently in New York City, condemned these practices on the grounds that they "infringed the retailers' right to buy what he wants, when he wants it, and to decide the price and the kind of display he wants to give it".

I think that is very interesting, but when I place before the committee some of the advertisement for Canadian Safeway's, members will see that they are in direct contravention of the American president's statement, because they are in this "right up to their ears" according to the advertisements I have picked out from across Canada. (*Copies filed with Committee*).

Yet another effect of this type of thing is that it takes the attention, energy and resources of the manufacturer away from improving his product and reducing its cost to the customer.

This really should be the prime concern of the maker of any product, but it is obvious that when the attention of the manufacturer is concentrated on lotteries, giveaways, coupon clipping, and other gimmicks on a large scale these primary matters must be neglected.

Instead of giving a one-cent reduction on a package, the manufacturer gives an automobile costing between \$2,000.00 and \$2,500.00 to one person and spends many times that amount on printing, advertising and special promotions.



This practice also tends to mislead the customer in that real values are not appreciated or noticed in the same degree when they compete with these flashy promotions. There is little or no chance that true value is combined with a premium. The customer has to pay for or contribute toward the cost of the premium which is a secondary commodity at the expense of the article he originally intended to buy.

I would like to quote an item taken from the *Kansas Food Dealer* for October, 1954:

These practices are confounding the selective instincts of the shopper—and if the flow is not dammed by government action, even some of our largest companies may show red ink for the first time since Pearl Harbour.

The resolution committee called for outright abolishment of this whole flagrant, wasteful method of advertising—a compromise would have been the same as endorsing bootlegging.

Why then do manufacturers pursue these practices? That is the \$64.00 question. Our National Foods Division wrote to most of the country's largest food field manufacturers last year, including manufacturers of household products, on the subject of give-aways. The answers received from those replying are practically unanimous.

As I said, these letters were almost all to the same effect and I summarize them in general without particular reference to any one of them:—

1. That they either do not engage in such practices, or that they do so reluctantly because they claim they are forced to do so by competitors who do it.

2. That the practice is expensive and wasteful of time and money.

3. That they feel that merchandise deals, give-aways promotions and consumer-deals are unfair to merchants and do not give customers an even break on price.

This same problem has arisen in the United States and is resulting in more and more states outlawing this type of gambling. For example, I quote an item from the *Pacific Northwest Grocer* published in the *State of Washington* last July:—

#### Give-Aways to Be Stopped:

The practice of food stores giving away appliances, automobiles, cash, savings bonds and other prizes will be stopped September 1st. This date was set to give current programs time to expire.

Representatives of all chain stores, voluntary groups and independents met July 1st with King County Prosecuting Attorney Charles O. Carroll in his office and agreed to the discontinuance.

Carroll said "give-away" programs by stores after September 1st will be considered for prosecution under state lottery laws.

This is the culmination of months of work and planning by the Washington State Retail Grocers and Meat Dealers Association, Paul Luvera, State Senator and Anacortes grocer, asked Attorney-General Don Eastvold for an opinion on the legality of give-aways.

The opinion was issued June 1st and states in part as follows:

A store conducting this program advertises or displays a valuable prize. Persons shopping in the store receive tickets, with and in proportion to the price of merchandise purchased, which represent chances to win the prize in a drawing to be held by the store. Your question is whether or not this plan is lawful. It is our opinion—that the operation described constitutes a lottery within the contemplation of RCW 9.59.010, and is therefore unlawful.



To bring this proposition to a practical conclusion, I would like to suggest what should be done or rather what the retail merchants of Canada would like to see done. Our present Criminal Code, or rather the old one, section 236, deals with lotteries. It has become entirely ineffective through legal interpretations placed upon its wording. The courts have held that a lottery must contain three elements:

1. Consideration, given or paid
2. A prize
3. An award decided by chance

It is number 3 which has been generally responsible for the failure of this section to prevent give-aways, draws and lotteries, because the courts have decided that if any element of skill (on the part of the contestants), enters into the award it is not a "chance" and therefore it does not constitute a lottery.

Not more than two weeks ago, when I was preparing this presentation, I heard one advertiser say:—"Just answer the question, 'What followed Mary to school one day, a lamb or a dog?'"

Here is an excellent example of skill, and the ultimate in the ridiculous.

If this is to remain the law, then there should be no lottery law at all. The section should be repealed in order to make the law look less ridiculous. If we are to have the law which was intended and which millions of right-thinking Canadians desire to have, then there must be added to the wording of this section a provision which will make it a lottery where the prize—either goods, merchandise, or money—is awarded by chance or by the exercise of skill on the part of the contestants or by a combination of chance and skill.

Unless this is done, the section is useless and serves no practical purpose at the present time.

After the word "prize" I have added "either goods, merchandise, or money". The present code covers "merchandise", but does not cover "money", and we would suggest that the word "money" be included.

In the second place, the merchants would like to have it declared illegal for a manufacturer or a distributor or a merchant, for that matter, to give away bonuses, prizes, awards, premiums or whatever they may be called (either by coupons, tickets, stamps, prizes, cash register receipts or any other method) goods, wares, or merchandise not manufactured by themselves.

If the manufacturer's goods were his own goods, or more of his own goods, that would not apply because it would amount to a reduction in price, which is a manufacturer's own business. Anybody can put out his own goods as cheaply as he wants to, or reduce the price of them. That is fine.

These two provisions, I am sure, would clear up a number of very unpleasant and unhealthy practices which are growing by leaps and bounds and which everyone deplors including those who are actively participating in them.

These suggestions are also, I think, in line with public thinking and with public interest.

For your information, I am going to show the Committee a number of examples of the type of promotion to which I have been referring. They are taken from centers all across Canada and are typical of what is going on in every community at the present time. (*Copies filed with Committee*).

As I indicated, Mr Chairman, I am going to give the committee some examples of the practices I have been describing. Yesterday afternoon, before leaving for Ottawa, we had a little gathering of people, and I was talking in Winnipeg to the general manager of the Hudson Bay Company, who was questioning me about coming down to give evidence before this committee,



and he said: "I think we are going very rapidly crazy. I was walking through the hardware section in our store on Saturday, when something 'hit me on the back of the head'. I turned back to look, and there in the middle of the hardware section was a pile of boxes of cake flour, and pastry flour in a great pyramid. I asked the manager what was going on—he is always complaining he has not got enough room to display his hardware—and he said 'It is that food manager across there who is doing it. He has been giving away a cake tin to everybody who bought flour, and if he is going to give away cake tins with flour, then I am going to give flour to everybody who buys a cake tin.'" The manager got them both together and told them: "I think we should all have our heads examined."

Hon. Mr. GARSON: That was in the same store?

The WITNESS: Yes, the same store. Recently Mr. Chairman, I ran across an advertisement which I have taken the liberty of having reprinted to distribute to your committee—an advertisement by the Canada Packers which just appeared to me this week. There is a copy for everyone here. If members would like to look at it, it emphasizes the very point I am making when I say that many who deplore these practices are being obliged to take part in them. (*Copy filed with Committee*).

Canada Packers say they have supported the Toronto Symphony Orchestra's programs on the air for a number of years and they have conducted other worthy and high-class public relations efforts. But they have now, they say, unfortunately come to the conclusion that they have got to get into this business of "giveaway" propositions, though very reluctantly. "We say, quite frankly, we don't like it, but what are we going to do about it? We are appealing to the gambling instinct of the people who apparently have a hope of getting something for nothing, and so, reluctantly, we are joining in the rat race—but with this difference, that our inducements will be bigger and better than anybody else's."

That is the advertisement which appeared May 15, 1953.

I have here, now, an example of the type of promotion to which I have been referring. Here are some more. They were just picked out from different cities and different centres across Canada to illustrate different types of promotion. I would like to leave these newspaper cuttings with the committee. They fall under two or three headings. Here is one which we picked up today. "Loblaws for a 1955 Pontiac".

The presiding CHAIRMAN: That is from where?

The WITNESS: Burlington.

Mr. BLAIR: Perhaps you would describe what the people have to do to win prizes.

The WITNESS: This says: "Five television sets—Safeway stores." This is a little more open. This is a straight draw. It says "Every day a draw will be made from the cash register receipts and somebody is going to win a television set every morning at 10 o'clock."

The Presiding CHAIRMAN: Will you tell us how this Pontiac car at Loblaw's is going to be won?

The WITNESS: It says the winning ticket will be selected on the 14th.

Mr. RANDS: —"So easy to enter. Entry blanks available at this store only."

The WITNESS: I think most of them are run on the same line. You fill out a jingle at the bottom, and then at 10 o'clock in the morning you have a draw. Here is another. Dominion Store. "Win a 1955 Dodge". You complete a jingle: "Dominion mammoth market is best, It saves me both trouble and time, In my opinion, When you shop at Dominion—" and then you add another line. This gives you the chance to win the Dodge car, but you have got to have a



coupon from some type of merchandise which is being promoted at that time. Most of these schemes are of that type. They require you to answer a question. One of them which I saw this morning read as follows: "For whom did Sir Walter Raleigh lay down his cloak?" You put that on a cash register receipt, and if you get the right answer you may win an automobile. Here is one, which has gone across Canada, from the *Free Press* in Winnipeg. Safeway's have done this in all the cities across western Canada—the offer of a Morris automobile. You buy a pound of the coffee which they are promoting, and get an entry blank from the coffee bag and then you complete a question. They ask you some question which makes it appear that you have exercised some element of skill, which, apparently is all that is required to "let them out of the door." Apparently if there is any element of skill which enters into the question, it "lets them home free."

Mr. WINCH: Such as: "How old are you?"

The WITNESS: That is right, or, for example: "Say what followed Mary home. A sheep or a dog." Here is one from Windsor: "9,000 to be given away in prizes. 54 money-saving prizes if you send in your favourite recipe."

The Presiding CHAIRMAN: Whose advertisement is that?

The WITNESS: That is General Mills "Betty Crocker Contest".

The Presiding CHAIRMAN: It is not really Windsor.

The WITNESS: No. It is not a Windsor store. Here is one in Windsor. They are giving away a 35-dollar electric appliance.

The Presiding CHAIRMAN: Who is?

The WITNESS: Bezeau's Appliance and Furniture Store. Here is another from Windsor: "Free waterless cookware."

The Presiding CHAIRMAN: Whose advertisement is that?

The WITNESS: Big Bear Market. Here is another from Windsor: "Free. 10 grill sets, 10 toasters, 50 food hampers. It is easy to win one of these prizes. Obtain entry blanks from A and P Supermarket in Windsor. Nothing to buy and lots of fun." You can enter and get your entry blanks from some type of merchandise which they are sponsoring. Here is another Windsor one. It is a different type of thing, a variation of the trading stamp proposition, except that you do not get a trading stamp, you get an 89-cent value for every five dollars worth of merchandise, but that merely amounts in fact to the use of the cash register receipt as a trading stamp. It is a variation of the trading stamp practice, because that, I think, would be a trading stamp. Customers are given silverware to the value of 89 cents.

Here is another cutting. The Dominion Store. \$175 worth of valuable prizes.

Mr. BOISVERT: What is the date of that advertisement?

The WITNESS: That one is Thursday, February 24, 1955.

Here is an example from Montreal, dated the 25th. It says "Sunbeam mixmasters. 100 being given away." Here is a newspaper report of the turkey-shoot at London, Ontario, and the trouble which it gave.

The Presiding CHAIRMAN: How does the turkey-shoot operate?

The WITNESS: It is just a straight draw proposition. Referring again to the offer of mixmasters, each entry is covered by two labels.

The Presiding CHAIRMAN: Where does the gambling come in?

The WITNESS: There are 100 Mixmasters. They are given away, and you buy the back of two packets of a Mix. You have got to send them with your entry, and then they draw to give away these prizes. As far as the section stands at the moment with regard to the question of a consideration being given, the courts have held that that is a consideration—if you have got to



buy a product and use a part of its box or container in order to enter. That means you have given a consideration, and I do not think we need worry about that element. It is the element of skill which has caused the trouble.

Mr. WINCH: Mr. Chairman, I do not think it is necessary for our friend to go through all the papers he has there. I suggest he files all the rest with us, unless of course there are some which are of an entirely different nature.

The WITNESS: No, they all come into the same category. By the way, I wish to make it perfectly clear that we are not here with any idea of pointing to any individual manufacturer, distributor or retailer. We are simply here, I understand, to give this committee evidence on what we see and know is going on generally. I feel I have mentioned one or two names, but the purpose of mentioning those names was not in any way to criticize or single out any one organization from another, or any one retailer from another.

The PRESIDING CHAIRMAN: Or Windsor!

The WITNESS: No, not at all. This is definitely in our opinion a matter which is growing by leaps and bounds in every section of this country, and it is being carried on on a wide scale, and practically everybody is getting into it, from the highest to the lowest. All of them indicate to us that they wish they could get out of it, but they do not know how to "get off the ride."

The PRESIDING CHAIRMAN: We thank you very much, Mr. Keith for your very interesting presentation. Probably before we ask some questions we could be given some background with regard to the Retail Merchants Association of Canada Incorporated. When was it formed?

The WITNESS: I will ask Mr. Gilbert, the president to answer that question.

Mr. GILBERT: The Retail Merchants Association of Canada Incorporated operates under a Dominion of Canada charter issued in 1910.

The PRESIDING CHAIRMAN: How do you become affiliated or associated with the Retail Merchants Association?

Mr. GILBERT: I think I can best answer that question by briefly explaining how the Association is constituted. We hold a dominion charter issued in 1910. We have a dominion board of directors elected from each of the provinces in Canada to the national or dominion board of the Retail Merchants Association of Canada. We have provincial offices in the provinces, and with the exception of British Columbia, they are all incorporated. The retailers in each of the provinces support the Retail Merchants Association provincially and they have provincial boards of directors, provincial executives, provincial offices and so on. They do the original field work of enlisting the support of the retailers. All the provincial offices subscribe to the policies of the dominion association. There is one exception at the moment. The province of Saskatchewan with whom we work very closely, is not at the moment associated with the dominion association.

Mr. WINCH: To the best of your knowledge, all across Canada, whether organized provincially or nationally, how many merchants do you represent?

Mr. GILBERT: Using a round figure of 40,000—that might fluctuate from time to time—we do not count a merchant out of our membership until he is more than two years in arrears with his subscription—about 20 to 25 per cent.

The PRESIDING CHAIRMAN: What proportion of the merchants in Canada are members of your association?

Mr. GILBERT: We do represent a very substantial proportion of the retail trade. There are about 150,000 retail outlets in Canada including Motor Dealers and service stores. We represent about 25 per cent of this total.

The PRESIDING CHAIRMAN: What percentage of the food merchants in Canada are members of your association?



Mr. RANDS: About the same percentage.

The PRESIDING CHAIRMAN: In other words, you would have a quarter—between 20 and 25 per cent of the total. What are your requirements for membership?

Mr. GILBERT: I might explain with respect to the National Food and Retail Merchants Association of Canada that it includes all types and classes of retailers. It so happens that the food stores comprised in that one classification afford a very active and strong measure of support of the food trade right across Canada. They have their elected national officers and they function as a national trade division of the Retail Merchants Association of Canada. Their membership comprises actually the food stores who are members; they are a trade division, and they handle their own trade affairs under the R.M.A. of Canada.

Mr. BOISVERT: Do you publish any weekly or monthly magazines?

Mr. GILBERT: No. The national food division publishes a weekly bulletin. Most of the provincial offices publish a provincial paper or a provincial bulletin. R.M.A. of Canada the national association has just commenced to publish a monthly bulletin, but it will be without advertising. One way or another provincially or nationally our whole retail trade have an excellent coverage.

Mr. WINCH: Could I ask the president if those stores such as Safeways, Loblaws, and stores like Hudsons Bay and Simpson-Sears are also members of your organization?

Mr. GILBERT: R.M.A. was not organized to include large department stores or chains. But in many instances we receive contributions from these stores which do not actually hold membership.

The PRESIDING CHAIRMAN: Has Mr. Rands anything to add?

Mr. RANDS: No.

The PRESIDING CHAIRMAN: Well if that is the case, we may commence our questioning. It will be led off today by Mr. Blair, our counsel.

Mr. BLAIR: According to the evidence, there are different types of contests and prize distribution.

First of all I would like to ask Mr. Keith and his associates, if any attempts have been made to bring about prosecution in respect to these various contests?

Mr. KEITH: Mr. Blair, such attempts as have been made, naturally were made through the provincial organizations going to the prosecutor or to the Attorney General of their province, but they have not been very successful. The general feeling encountered has been that it has been pretty nearly useless to try to pin down any offender. They always manage to wiggle out of the thing on the basis that the participant has somehow or other exercised some degree of skill. They are most loath to take any steps to prosecute.

They have lost so many cases that they just more or less brush you off. Every now and then some enthusiastic prosecutor will take the bull by the horns and jump in. We had a case in Winnipeg not long ago, and I believe that this year out in British Columbia the prosecutor decided to go after the provincial exhibition on the question of selling tickets. What was the outcome? I believe at the moment there is a prosecution started against the Dominion stores here in Ottawa on one of these, and that one of these at present is on its way to the Court of Appeal. What the outcome of it is or the basis of prosecution, I do not know.

But the effect of complaints addressed to the enforcement officers is this: they are not indifferent, they are not antagonistic, but they are sort of hopeless, and they say "Oh, well, what is the use? We have done it several times and we always lose. Why go on the merry-go-round again?"



Mr. BLAIR: There are various types of contests mentioned. If a store agrees to give prizes on the basis simply of drawing a sales receipt, has the delegation any comment or suggestion to make as to how the present law could be strengthened to prohibit that practice?

Mr. KEITH: It seems to me that if that is what is done, then it is an infringement of the law as it stands at the present time. I think I have only run across one or two of them in this list. Mind you, I have not taken these ads out with any plan or purpose. I think there was question too that they, in running them openly, announced that it was a draw. The others are all subject to the completion of a jingle, answering a question, telling how much they weigh, or something like that.

Mr. BLAIR: It may help the committee if I read the governing sections of the Criminal Code which deal with this question of mixed chance or skill. This is section 236, subsection 1, paragraph (d). It is printed at page 58 of last years proceedings:—

Sec. 236 (Clause 179 of Bill 7, 1954)

(1) Every one is guilty of an indictable offence and liable to two years' imprisonment and to a fine not exceeding two thousand dollars who

(d) disposes of any goods, wares or merchandise by any game or mode of chance or mixed chance and skill in which the contestant or competitor pays money or other valuable consideration;

Mr. WINCH: Does that include bonuses, Mr. Blair?

Mr. BLAIR: I would like to ask a question about that a little later, if I have the committee's permission. Now, Mr. Chairman, I would like to ask the delegation if it is their contention in respect to these contests that there are elements of mixed chance and skill?

Mr. KEITH: Yes, that is just the point I was trying to make, but perhaps unsuccessfully. I have watched with interest a couple of these prosecutions. What happens is that two or three people appear on behalf of the accused and say that they have looked through all the entries and after diligent and careful consideration have decided that Mr. A or Mrs. B gave the best answer. And that apparently is the end of the matter as far as the magistrate is concerned. There is no means that I know of to disprove the statement, whether they did or did not actually look at all the entries. It becomes impossible for the prosecutor to prove that they did not. If they get up and say that they did, that is the end of it.

Mr. BLAIR: It can be inferred from the circumstances that there is an element of chance in the selecting?

Mr. KEITH: The mere quantity of entries makes it obvious that it is impossible from a practical point of view for any one person, let alone two or three, to read over every single entry.

There was a case which I think has been reported in the criminal law, where that very point was raised with respect to a newspaper contest in which the newspaper, I believe, received somewhere between one hundred and one hundred and fifty thousand entries. The judges said "No. We looked through them."

There is another argument that it was physically impossible for them to have done so; but the court said "No. I cannot take any judicial notice about physical impossibilities; and if these people say that they looked at them, that is the end of the evidence and I will have to take it."

It went to the Court of Appeal and it was upheld. There is no argument that the great quantity of entries makes it physically impossible to do it. But



you know and I know and everyone knows that no one person is going to sit down and go through them all. Here is one with two thousand prizes awarded, and it has a whole newspaper page of winners.

I have no opinion how many entries there must have been in that contest. I think it is quite clear that it is utterly impossible for any judge to go through them all, but there is no way for the prosecution to bring in evidence to say that they did not.

Mr. BLAIR: If I undersand the situation correctly, the main point in your present suggestion is to prohibit the distribution of prizes as a result of the exercise of skill on the part of contestants as well as contests involving merchandise and skill?

Mr. KEITH: Yes, or by chance or by a combination of it. I have added words to the skill section, the real section which disposes of it; and I think it should also help to include the words "Or gives away".

I do not know if "dispose of" means the same thing as "give away", but it would make it clearer if it had in it "disposes or gives away goods, wares or merchandise, or money."

I suggest that that be added and then "by means of", and I add "whether by chance or by exercise of skill on the part of the contestant, or by any combination of chance and skill".

I suggest that these conditions "or gives away, or money, or by the exercise of skill" be added to the present section.

Mr. BLAIR: I am not trying to be too technical, but I gather that in making this suggestion you would exclude legitimate contests, such as athletic contests and cultural contests of various kinds?

Mr. KEITH: Yes.

Mr. BLAIR: I would like to direct your attention to the other type of give-a-way of which you spoke, which might be characterized as the premium or bonus type of offer. I further wonder if you would mind telling the committee your understanding of the governing provisions of the Criminal Code at the moment in this regard?

Mr. KEITH: Well, I understand that it is illegal under the trading stamp section to give away coupons and so forth which are redeemable in goods, wares, or merchandise. But if the manufacturer wishes to give away his own produce, product or article, I think that it is his own business.

The weakness seems to be in going out and purchasing, no doubt at retail, articles in which they have no trade connection whatever such as the hardware store which goes out and gives away flour, and the flour or feed people who go out and give away electric kettles, irons and so on.

I think the suggestion is that it simply be declared illegal for one manufacturer to go out and give away the products which are manufactured by another firm, and just let it go at that. Why should he go out and spend his money which he must have to do? Obviously the manufacturer who is making these appliances does not like it. He protests violently about it. He does not like his products being given away, so the person doing it has to go out and buy them. On the other hand he sets up a display and says: "Come on into my store and I will give away all these things for nothing."

I think that first of all he is using money that he could very well use in order to reduce the cost of his own article or improve the quality of it. Secondly, he is damaging another person who has no redress against this type of activity.

Why is he doing it? He is doing it simply to appeal to the gambling instincts of his possible customers. He is not doing it to bring about any price advantage or any quality advantage or any additional service that he himself is in a position to give.



As I say, he is simply holding up a prize which is not his own, as an inducement to people to come and do business with him, and he is giving it away, and as I have said he is simply appealing to their gambling instincts.

Mr. WINCH: Mr. Chairman, is it your desire that we may ask questions at this time, or shall we wait, on the same subject, until it comes around to us?

The Presiding CHAIRMAN: I think it would be well for you to hold your questioning until you reach your turn. In that way we will be fairer to everyone.

Mr. BLAIR: I do not want to trespass on the time of the committee.

The Presiding CHAIRMAN: There is no objection to your asking these questions, Mr. Blair. That is why you are here.

Mr. BLAIR: I wonder if it would be agreeable to the committee to have attached as an appendix to this day's proceedings section 505 of the Criminal Code which is the trading stamp section, as well as section 335, paragraph (x), which defines "trading stamps".

The Presiding CHAIRMAN: Agreed.

(See Appendix B)

Mr. BLAIR: My final question to Mr. Keith is this: if I, as a merchant, offered to give to the public a fountain pen if they purchased a dollar's worth of goods in my store, would that, in your view, be a gamble or a lottery?

Mr. KEITH: I think that is a trading stamp proposition. You are in effect making your cash register receipt a coupon or stamp, or something of that nature. You are not declaring it to be so, but in fact isn't that what you would be doing?

Mr. BLAIR: In other words, this type of give-away in a store does not come under the lottery provision, but it does come under the trading stamp part?

Mr. KEITH: That is my idea of it.

The Presiding CHAIRMAN: Now, Senator Farris.

Hon. Mr. FARRIS: I was wondering just how far the issue of jurisdiction comes up between our jurisdiction and the criminal law and the provincial jurisdiction with respect to property and civil rights. I am now going to ask a question about that. You gave us an illustration of a man offering a prize for his own goods. That is his business. Suppose he should go out and buy something. You are not concerned with the morals of the thing, but you think that it is an unfair trade practice. Have you ever considered how far the province could deal with that in controlling a pure question of property and civil rights?

Mr. KEITH: I think that if the matter was fairly considered to be a gambling device, then the Code and the federal jurisdiction would override all other considerations.

Hon. Mr. FARRIS: I agree with you, if it is a gambling device; but if it is a colourable attempt to make it appear a criminal offence in order to come within the jurisdiction, that is different.

Mr. KEITH: I think that all these things could be fairly interpreted as gambling. At least we have these ads offered. I do not think there is any doubt but that they are all lotteries under the present setup. Goodness knows what some ingenious person might think up if this was altered. However, I think all these things are definitely gambling devices.

Hon. Mr. FARRIS: Do you think they are devices and that the prosecution can be defeated because of this provision about skill?



Mr. KEITH: That is what happens. It has got the prosecution departments of various provinces buffaloed. They cannot see any hope of winning a prosecution in any of these cases where they answer a question or make up a jingle or do something of that kind. They have been defeated so often that they just throw up their hands on it.

The Presiding CHAIRMAN: Now, Senator Aseltine.

Hon. Mr. ASELTINE: I had some questions to ask but they have been pretty well covered by Mr. Blair's questions. I was going to ask if Mr. Keith had prepared any amendments that he thought would cover what they are trying to prevent.

Mr. KEITH: Our suggestion is that the addition of these three words "or by way of; or money; or by exercise of skill" would bring about that result; but we also would like to have it declared illegal. This is outside the present section altogether. These are additions to the present section. We would also like to see an additional section declaring it illegal for a manufacturer to take some other manufacturer's goods and give them away as a bonus, prizes, premiums, awards, or whatever you want to call them, on any basis at all.

Hon. Mr. ASELTINE: I would like you to prepare an amendment and submit it to the committee.

Mr. KEITH: I would be glad to do that. I was not quite sure, frankly, what the committee thought of my recommendations, or whether you would entertain such a one. But I would be glad to do it.

Hon. Mr. ASELTINE: We will be glad to have you do it.

The Presiding CHAIRMAN: He will do it. Are there any further questions? Now Mr. Cameron.

Mr. CAMERON (*High Park*): I have no questions.

The Presiding CHAIRMAN: Mr. Boisvert?

Mr. BOISVERT: First of all, can we have a generalization about this throughout Canada?

Mr. KEITH: Yes. There is no doubt about it that it is something which occurs from coast to coast and is not confined to any district.

Mr. BOISVERT: Thank you. That is all.

The Presiding CHAIRMAN: Now Mr. Lusby.

Mr. LUSBY: On page 2 of your brief you mention that merchants generally are opposed to horse racing and that it is quite apart from the legitimate interest they have in their own well being. Is it because they consider it has a bad effect on the welfare of the wage earner and his family? Would you say that this type of contest with this advertising in newspapers would also have a bad effect?

Mr. KEITH: Well, sir, the cost of these automobiles is being paid by the consumer, and the only one being affected is the customer. Suppose he goes into a store and he wants to buy a package of soap, a box of cornmeal, or some commodity for which he has been sent in there for. What does he get? He gets a plastic cup and saucer, a glass bowl, or a coupon for an automobile. He went in there presumably just to buy food for his family, yet he finds that he is going to help pay for an automobile, a television set, a plastic cup and saucer, or a glass jar. And that is one comment I would make. He is the one who is helping to pay for these things, because the manufacturer is not paying for them. The merchant only buys them as agent for the customer who is having to help pay for them whether he wants to or not.

Mr. Rands was telling me that he went out with his wife shopping on Saturday to pick up some food, and his wife said to him "Do not bring that



home. We have got plastic cups all over the house now, and we just do not want to have any more." And he said "what are you going to do with them?" And she said "I am going to throw them out into the garbage."

You see, she is paying for that stuff, yet all she wanted to do was to buy some food products. Of course it is detrimental to the customer. Moreover, those who probably own television sets and automobiles do not want to have to pay for others, yet that is what they are made to do every time they go out and buy those products. And that is what they have to do, according to the way we look at it in the Retail Merchants Association, whether they like it or not. It is time, expense and money wasted on these things, and the cost is having to be paid for by the consumer.

Mr. LUSBY: They are paying for it as a class, but is it fair to say that in any one individual case it would not be every serious. The man might be addicted to horse racing to such an extent as to ruin himself.

Mr. KEITH: I heard on the radio of another example just a short time ago. This woman won a \$1,000 prize and she was very proud of it and very happy. Then the announcer asked her how much she had bought of the product, and she said "ninety-eight bottles of the product." And he said: "where have you got them stored?" and she said she had them in her medicine cabinet and that she had enough to last her for six lifetimes. She said she would throw it out, and he said "why did you buy it?" and she said "I bought it in order to win a prize."

That was pretty poor advertising for the product, but it is an example of the way these things appeal. They appeal to the gambling instinct, the chance of getting something for nothing.

Mr. LUSBY: A person will buy a great amount of a product for the chance of winning a prize.

Mr. KEITH: Yes, over and above his needs.

Mr. LUSBY: You were drawing a distinction between the manufacturer who disposes of his own products by some such gambling device we have been considering, and the one who disposes of somebody else's products. I suppose there is a great difference, from the point of view of your organization, if we look at it from the point of view of whether or not it is an appeal to the gambling instinct. I suppose there is not actually any distinction between the two forms?

Mr. KEITH: Well, I have never run across one of those contests where the manufacturer gave away his own products. He always gives away somebody else's. Outside of these lotteries and "give-aways" where they give away somebody else's product, the chief way in which a manufacturer "sells" his own product is by reducing the price to everyone in competition with others who are manufacturing the same type of product, or else by giving the public a better quality or greater quantity. That is legitimate competition. It is what a manufacturer is supposed to be doing and I think that is what the manufacturer would do.

I do not think that if a manufacturer gives members of the public the chance to get three boxes of corn flakes instead of one that that would appeal to the gambling instincts particularly.

Q. It seems to me that it would be rather illogical to prohibit a manufacturer from disposing of someone else's goods, and at the same time to permit him, if he wished it, though it might not be very often, to dispose of his own goods.—A. I do not see anything illogical about that.

*By Mr. Winch:*

Q. I have two questions to ask. I would like to say first of all that I have found this presentation to be most interesting all the way through. In line



with what has been said about a retailer offering a product as a prize or give-away, and as to whether it is his own product or the product of some other firm—a question which I find most intriguing—I take it from what has been said by the witness here in his presentation that he feels that a cash register receipt for the actual payment of cash for something, used upon the lines he has indicated, comes under a section of the Criminal Code on trading stamps?—A. I think so.

Q. As long as I have that correct, then I am intrigued by this word “bonus.” The word itself, or implications from it, appears on pages 7, 8, 9 and 15 of the brief. I think the key is on page 15. May I introduce my question by reading part of the first paragraph on page 15?

In the second place, the merchants would like to have it declared illegal for a manufacturer or a distributor or a merchant, for that matter, to give away bonuses, prizes, awards, premiums or whatever they may be called (either by coupons, tickets, stamps, prizes, cash register receipts or any other method) goods, wares, or merchandise not manufactured by themselves.

It is the word “bonuses” with which I want to deal. There must be thousands of drug stores in Canada and a great many of these thousands of stores are drugs stores which handle what are known as Rexall products. Periodically every year all these thousands of drug stores which handle Rexall products put on a “One cent sale” which means that if you buy any of these products at the full price, then for an extra one cent you can buy the same product again.

I would like to ask the witness whether he differentiates in his own use of the word “bonus” and whether or not he is asking that this form of bonus should also be stopped, and if not how does he make the distinction between this and what he has referred to in his presentation this morning?—A. First of all, this involves the sale of a manufacturer’s own goods, and secondly it is a price reduction. He is offering two of the same articles for the price of one, and it is a merchant’s business to decide whether he will do that or not.

Q. Is not the second one a bonus?—A. I do not think so.

The Presiding CHAIRMAN: Suppose he gave it to a customer for nothing?

The WITNESS: Still they are his own goods. If a manufacturer wants to give them away that is his own business. It is a type of selling which I would not think possible to restrict, nor should it be restricted. If the manufacturer wants to give two articles for the price of one I do not see anything which would stop him from doing it.

The Presiding CHAIRMAN: It might not be profitable.

The WITNESS: Yes, but that is his business.

*By Mr. Winch:*

Q. It is not a bonus in your estimation?—A. I do not think so. But if you do not like the word “bonus” you can take it out. In such a case it would involve only the manufacturer’s own goods. He has not gone out and bought, let us say, an automobile or an electric iron or a toaster and given that away. He is giving away two articles for an additional one cent on the price of the first. That is within the scope of his business, if he wants to do business that way. I would not want to stop him.

Mr. BLAIR: Does Mr. Keith’s exception apply in the case of a department store or any store carrying a multitude of lines?

The WITNESS: I do not think it would in the department stores. However, from what I have seen the department stores would welcome this suggestion



with open arms. This is a terrible headache and, as I mentioned, Mr. Chairman, it may even result in one department giving away what the other department is trying to sell. It is terribly difficult, and they would welcome this with all the power they could put behind the suggestion.

*By Mr. Winch:*

Q. In view of what the witness has already stated, that the cost of all prizes and give-aways is incorporated in the other costs, I presume he would also say that the cost of the one cent on the second package is incorporated in the cost of the full package in this instance of a bonus—or is this a firm of philanthropists giving away their products for nothing?—A. I would not know on what basis they justify giving away a product at half price at any one time. I know they must have their reasons for thinking that it would be a good business perhaps to introduce their articles into ordinary use. I take it they are the type of article which is replenished and used more often than once.

Q. Would you also say that the price is included in the regular unit price?—A. I would not know.

Q. Then, if you do not know in this particular instance, how is it then that you are so definite when on all the other aspects you say that the regular customer is paying for these give-away prizes?

The Presiding CHAIRMAN: The point is that in the other cases the manufacturer does not regularly sell those articles.

The WITNESS: No. He has to go out and buy them. It must be that he considers, in the case Mr. Winch has in mind, that he can afford to take a loss on the short-term because he hopes to introduce the use of his commodities to more customers who will return and buy them again and again from that organization. I think that is probably the basis of the reasoning behind it, and that is a decision which the merchant or distributor must make for himself.

*By Mr. Winch:*

Q. It is a piece of advertising?—A. It is.

Q. And all advertising costs are included in the cost of the product?—A. I assume so.

Q. In view of the statements which have been made by the witness, is it his opinion that if these matters which he is objecting to, which he says add to the regular cost to the majority of customers for a product, were stopped by an Act of Parliament it would then mean a reduction in the cost of these commodities to the public of Canada?—A. I would have liked to have read the answers that these manufacturers have sent to us, but we did not get authority to use their names. They are the leading manufacturers in Canada, I might say, and they all practically unanimously hold the opinion that the measures which we have been suggesting would have the effect of reducing the cost price of products to the public. On the bottom of page 12 at item 3, we say:

They feel that merchandise deals, give-aways, promotions and consumer-deals are unfair to merchants and do not give customers an even break on price.

In other words, the customers are paying more than they should pay for the product because of these very expensive and elaborate schemes.

Q. What I have been referring to is one-cent sales.—A. Oh, no, that is not a lottery or a give-away. That is a merchandising device and a totally different thing. For example, there is no lottery.

Mr. GILBERT: I think it may be assumed that that is the merchandising policy of the company, and it goes to prove the point which we have been

making. By virtue of the fact that they are not giving away automobiles and other expensive gifts they are able from time to time to make their goods available more cheaply to the consuming public. Instead of giving away articles which the consumer does not want, they effect a reduction in the price of their products, and we are in complete agreement with that, as we pointed out in our brief. The whole point is that these wide-spread practices add to the cost of the product which is being sold.

Q. If I may ask this further question—

The Presiding CHAIRMAN: The witnesses here have given evidence as to what they are contending. They have given it very clearly and very frankly. We may or we may not agree with what they have said; that is the business of this committee. If you want to ask questions to find out further what they think, that is in order, but to argue with the witnesses and try to break them down is another matter and I think it should not be allowed.

Mr. WINCH: I am just trying to understand their evidence, and the witness has made certain statements which I should like to understand further, particularly as to the basis of those statements. The president of the Retail Merchants Association has just said that the cost of the product could be reduced. I have dealt with the Retail Merchants Association for twenty years in the province of British Columbia, and there is in that association, I do not know whether on a national basis or on a provincial basis, a drug store section. Why is it that not less than six times a year and in continuing years this thing always happens? Is the witness putting forward the statement that around six times a year, possibly, they can do this? How does it come about that the regular price never changes?

The Presiding CHAIRMAN: You mean to say they are having these one-cent sales six times a year? Hasn't that been answered so often?

Mr. WINCH: I am going on the witness' statement that they could reduce the price.

Mr. GILBERT: You will find certain manufacturers introducing special lines. I saw one instance relating to a tooth paste where you could buy a second tube of tooth paste for an extra few cents. These are subjects which we could sit here all day and talk about without hoping to complete the discussion. They are questions of merchandising policy. That does not involve the element of lotteries, and it is the element of lotteries which has crept into the field of merchandising contrary to the interests of the customers which has led us to come here, and which we are trying to discuss today.

*By Mr. Valois:*

Q. I have been very interested in your presentation today and there is one matter to which I should like to draw to your attention. In the first or second paragraph of your brief you state that the chief concern of your organizations is the betterment of the retail trade and raising the standard of service to its customers and establishing and promulgating a high code of business ethics among all those who engage in the retail trade.

I would suggest, then, that it would be fair to say that if you have felt justified in going on the record as being opposed to gambling in every form, it is by mere accident, because it is only on account of certain practices being carried on, such as give-aways and draws, that you feel you are affected by those sections of the Criminal Code which deal with gambling. Is that not right?

A. I do not think that we came here with the idea of advancing particularly the interests of the merchants. I take it that parliament and yourselves as a committee thereof are interested in the general welfare of the people of Canada, and we as merchants are in possession of certain facts and certain



information regarding this particular phase of the general body politic and we have come here to give you that information for what it may be worth to assist you in arriving at what you intend to recommend to parliament.

We are not here to sell you the retail merchants or ask for any favours for them or anyone. We simply say that in our position as merchants we see these things going on; we do not think they are healthy; we do not think it is a happy situation, and we do not like it, and for what it is worth we give you all the information we have. The use you make of that information is up to yourselves.

Q. I would not like the witness to think that my remarks were intended to imply any blame. That was far from what I had in mind. Let me try to put it this way. I think that you will agree that the law is good in so far as it is supported by the public.—A. Quite.

Q. I think you will also agree, from your own experience, that the gambling laws so far have not had much of a record to show that they have had support from the public and my idea was that those practices which you condemn might be more easily eradicated if instead of being placed under the heading of gambling they were classified, for example, under the heading of unfair trade practices. In other words, instead of telling a manufacturer or a merchant that he should cease to do certain things because what he was doing was gambling and was not legal, we might tell them, "It is not a fair practice," and leave the gambling matters to come under the Criminal Code. That is what I had in my mind. Is it a suggestion which appeals to you? I hope I have made my meaning understandable.

A. If you are saying that the gambling sections of the Code do not have the support of the public, I do not agree with that. I think they do. I think the trouble has been the loophole which exists in the enforcement of the Code and I would again emphasize that by saying that the people who are engaging in this practice of gambling are the very ones who say they wish it did not go on and that they would like to get out of it but that they have been more or less obliged to take part. Nevertheless these practices have been wide-spread and adding to the cost of merchandise by reason of this loophole in the Code which makes it impossible to enforce. The majority of people, according to the information we have, want the law to be enforced. It is not a case, as it was in the days of prohibition, when a majority of the people were definitely against the enforcement of the prohibition law. In this case I think the people as a whole are against gambling, and definitely the merchants are against gambling, and that is why we came here today—to tell you that. The fact that it has been going on is not due to lack of antagonism toward the law, but because of the loophole in the law which makes it impossible to enforce.

Mr. LUSBY: And competition.

The WITNESS: If one goes into it another goes into it. They all say, like Canada Packers say, that they would gladly get out, but apparently the people want to go in for these things so they are going in too, with bigger and better prizes.

The Presiding CHAIRMAN: And the people pay for them.

The WITNESS: Yes, the people pay for them.

*By Mr. Valois:*

Q. Take the Irish sweepstake, for instance, or any other lottery. You can spend, say, \$3 or \$4, and for that sum you are buying a chance to win a prize. If, according to your moral code this is not against your conscience, how should this prevent you entertaining a different proposition if, in the case of a lottery, there is some sales promotion attached to it?—A. If you go into a draw you

buy a ticket and you get a chance of winning a prize. But if you do not want that chance you are not obliged to pay for it. But in the matters we have been discussing, if you do not want that chance you are still paying for it with what you buy. The price is the same whether you want the chance or not.

Q. We are in accord on that point. That is why I was wondering if it would not be better to secure more effective enforcement to have a section to deal separately with it.

The Presiding CHAIRMAN: Probably we should consider that when we come to write our report.

Mr. VALOIS: I am just asking the witness if he sees any merit in that suggestion.

The WITNESS: As long as the practice can be stopped I do not think we are sufficiently expert on the subject to attempt to define the wording, or the place in the Code, under which this could best be done.

Hon. Mr. GARSON: But is it not difficult for us to find out what you are driving at until you do draft a section of the Code? I would be interested to see how this would boil down into a section of the Code which would fall within our jurisdiction, which is to deal with acts which are criminal rather than illegal. I do not see how we could possibly make it a criminal act for a man to give something away.

Hon. Mrs. HODGES: When does a man give a thing away and when does he not? From a legal point of view that might be very difficult to decide.

*By Hon. Mr. Garson:*

Q. A merchant charges the going price for his merchandise, but in addition he gives things away. The same prices are charged by everybody else. If the merchant charges the same prices the purchaser gets his chance for nothing whereas if he buys a ticket in the Army sweepstake he has to pay two or three dollars. I am sympathetic with your viewpoint here, but it would be very helpful if we could have first of all the citations of the cases in which you contend that the present law has failed because of the reasons you allege, and secondly the exact text of the amendments to the Code which your argument is intended to inspire.—A. I think with regard to this, Mr. Minister, I suggest the addition to the present section of the words, “or money, or by the exercise of skill on the part of the contestant.” That is all the suggestions we have.

Q. On page 15 you say:

In the second place, the merchants would like to have it declared illegal for a manufacturer or a distributor or a merchant, for that matter, to give away bonuses, prizes, or awards.

“Illegally” in this context must mean “criminally” because we have only jurisdiction over criminal matters; and as has been pointed out we do not have jurisdiction over property and civil rights. Surely we cannot make it criminal for merchants or manufacturers or distributors to give away bonuses, prizes, awards, premiums or whatever they may be called. I should like to see your wording of a section which prohibits that.

Mr. WINCH: How are you going to handle it under that section? The trading stamp section is the most intricate of all.

*By Hon. Mr. Garson:*

Q. Our task begins after we have listened to your brief. We may possibly be carried away with it and want to do something about it. If we do, we have to draft this provision. I would like to see what you think this pro-



vision should be.—A. Our principal desire is to have the present section amended, and I suggested making it illegal to have a lottery by skill.

Q. That would not cover this.—A. No. It is a secondary matter. We simply expressed our views on the subject. I do not know if it would be possible to cover it in the Code or not. I will try to draft something and submit it to the committee, but that is not the main part of our argument here today. The main part of our argument is concerned with the present section which is ineffective in our opinion because of its interpretation that if any skill enters into the operation at all it is not a lottery. We say that it is a lottery and that the Code should say that it is a lottery.

Q. Are you serious in that—in your suggestion on page 15—that you would submit a section?—A. Yes.

Q. Thank you.

*By Mrs. Shipley:*

Q. I have one question to ask, please. On page 15, the first paragraph, you say the manufacturer should be prevented from giving away anything except merchandise which they manufacture themselves. I can see the “rat race” starting all over again, and the little fellow being in a worse position than ever, because there is nothing to prevent the big company from manufacturing something which it then would use to sell different products. I do not suggest they would manufacture motor cars, but they could turn out almost everything except a motor car, including television sets. It seems to me that this particular suggestion is unsound on that basis. It would be possible for the “big fellows” to manufacture something which would attract the public over and above the cake of soap or whatever it was they were trying to sell.—A. It would be possible, but I do not think it would be practicable.

Mr. GILBERT: It is a good question. The point we have tried to make is that if a manufacturer can afford to do these things he can afford to reduce the prices of his products, or give more of his products to the public for the same price. That is enterprise and competition, and we have no argument against it. But there is this other element of unfair competition which has crept in, and that is another matter.

*By Mrs. Shipley:*

Q. If you had said “other than to give more of any one product for a lesser product” you would have had a point. I saw that the opening was there and I thought I would mention it.—A. We realized it was there. But we do not want the committee to think that we are here to suggest interference with methods of merchandising. If the goods which a man is handling are sound, I think you have got to leave that question open for him to decide and that he should handle it in any way that he sees fit. We would not want to interfere with him in that matter. If he wants to go into a different field and manufacture something else, and he thinks that is a good thing to do, that is a decision which I feel should be left open to him to take.

Q. We appreciate your point of view, but if we are going to change the law we must be careful that we make improvements in it and that we do not make it worse.

Mr. MONTGOMERY: I think it is pretty well agreed that this brief seems to open up a new field of thinking and just how much can be brought down to the Criminal Code, as the hon. minister suggested, has been baffling me. There is just one question I would like to ask, though it may be somewhat outside the brief. What is your opinion with regard to the lotteries run by agricultural fairs?

The WITNESS: We avoided covering that in our submissions. It is in the Code at the present time that agricultural fairs enjoy some special treatment. Frankly, I do not see how, if you are going to condemn a practice, you can justify it for some and not for all. I do not see how you can fairly ask people to obey a law and then make an exception for certain classes, regardless whether they are agricultural fairs or anything else. But that is not a merchandising problem, that is a—

Hon. Mr. FARRIS: Political problem?

The WITNESS: If you want to put it that way.

*By Hon. Mr. Tremblay:*

Q. As the Retail Merchants Association are interested in improving the customs and practices of the retail trade, it would be interesting to know what the association think about loss leader practices.—A. We have already covered that before the commission which was set up to investigate that matter and I would be glad to give the senator a copy of our brief on the subject.

Q. It would be very interesting.—A. We had a very interesting session in the Supreme Court building in the fall on that subject and our views are quite clear on it.

*By Mr. Winch:*

Q. Just one further question. In view of the fact that the counsel for the Retail Merchants Association has agreed to submit the association's ideas on amendments to one section of the Criminal Code could I ask the witness if at the same time, in view of the undoubted emphasis which he places on the trading stamp issue, he could submit to this committee any recommendations he may have on changes to section 335, which is the interpretive section on the trading stamp, and section 505, which deals with the trading stamp? Would he submit his idea on that at the same time?—A. I did not know, Mr. Chairman, that that was a part of this committee's investigations. Was not that section re-enacted?

Q. That is correct, Mr. Chairman, only it was the witness himself who brought that into the discussion and tied it in with the lotteries and raffles, and therefore because he himself has tied it in on one or more occasion in the last two hours I think we should have his ideas on amending that.—A. The only reason I mention it, Mr. Chairman, is that as you look through these advertisements which I have submitted here, few of them are give-a-ways based on what is really a cash register receipt. I take it that that is a trading stamp matter and should be, and could, be dealt with under the trading stamp section which is already in the Code. And whether or not it is being enforced as it should, I think that it is an enforcement question. I think the Code does cover it in its present form, but I did not really go into the question in detail because I did not think that the section was being considered by this committee at the present time. Am I right?

Q. If it has to do with lotteries or raffles, it does. As to your give-a-ways, it depends on what you mean by commodity.

Hon. Mr. GARSON: The delegation has been dealing with the lottery provision and they have also added this matter of giving away bonuses and prizes and so forth in connection with the second of these two steps. They contend, if I understand the argument, that the trading stamp section of the Code as it stands now, does cover it, so it is merely a question of enforcement and it would not involve looking at the present language.

The Presiding CHAIRMAN: Are there any questions ?



The Hon. Mr. GARSON: There is one point on page 15 of the brief which I wish to have cleared up. It is this: if we were to enact a section such as that suggested here, would we not be handicapping the little man, the little retailer to the advantage of the big retailer and the chain store? Because if you just permit those merchants who are also manufacturers to give away goods of their own, it will be Eatons, Simpson-Sears, Canadian Tire, Safeways, and all those stores that sell their own goods that would be able to give them away. It would be the little fellow who had no goods of his own to give away who thereby would be placed at a disadvantage. That was my reason for suggesting that in the drafting of the section some cognizance should be taken of that fact.

If the principle you seem to advocate is to be accepted by us, I wonder whether there is any way in which you could draft it which would get away from this difficulty I have just mentioned; because it would be a bad state of affairs if the only people who could give bonuses were the people who manufactured their own goods, whether it be footwear, clothing, or Rexall Drugs.

If you would consider this point very carefully and draft a section to cover it, it would be very helpful to us.

The CHAIRMAN: If there are no further questions I want to extend on behalf of this committee our appreciation to you, Mr. Keith, Mr. Gilbert, and Mr. Rands for your very interesting brief and presentation.

It has I think enlightened the members of this committee with a new view which has been suggested with respect to lotteries. We appreciate your coming here very much, and we appreciate the assistance you have given us. Thank you very much.



## JOINT COMMITTEE

## APPENDIX A

TRENDS IN COMPARATIVE SALES OF CHAIN AND  
INDEPENDENT STORES

TABLE 1

*Soles-Combination Food Stores with Meat  
and  
Combination Food Stores Without Meat  
Dominion Bureau of Statistics*

## 1951 METROPOLITAN AREA

	Chains <sup>1</sup>	per cent	Independents	per cent	Total <sup>2</sup>
Montreal .....	\$ 94,022,800	35·61	\$170,392,000	64·39	\$264,062,000
Ottawa .....	24,218,100	47·08	27,219,200	52·92	51,437,200
Quebec .....	5,789,600	13·15	38,219,200	86·85	44,008,800
Toronto .....	116,857,700	59·69	78,909,500	40·31	195,767,200
Winnipeg .....	25,564,800	43·19	33,625,400	56·81	59,190,200
Vancouver .....	35,602,300	42·99	47,207,900	57·01	82,810,200

## CITY PROPER

	Chains <sup>3</sup>	per cent	Independents	per cent	Total <sup>4</sup>
Montreal .....	\$ 68,130,300	33·85	\$133,139,000	66·15	\$201,269,300
Ottawa .....	22,561,900	57·03	17,002,500	42·97	39,564,400
Quebec .....	5,775,000	17·92	26,450,000	82·08	32,255,000
Toronto .....	72,368,400	57·22	54,105,100	42·78	126,473,500
Winnipeg .....	19,129,500	44·31	24,041,300	55·69	43,170,800
Vancouver .....	25,285,300	45·35	30,469,100	54·65	55,754,400

<sup>1</sup> Table No. 3 D.B.S. Census of Distribution.

<sup>2</sup> " " 21 " " " "

<sup>3</sup> " " 14 " " " "

<sup>4</sup> " " 7 " " " "

TABLE 2

*British Columbia*

*1941	10·9%	of outlets accounted for 38·3%	of the business.
*1951	5·47%	of outlets accounted for 31%	of the business.
s1954 Est	5·47%	of outlets accounted for 34%	of the business.

*Alberta*

*1941	6·32%	of outlets accounted for 29·9%	of the business.
*1951	5·2%	of outlets accounted for 31%	of the business.
s1954	5·2%	of outlets accounted for 35·8%	of the business.

*Saskatchewan*

*1941	7·16%	of outlets accounted for 33·1%	of the business.
*1951	4·89%	of outlets accounted for 25·1%	of the business.
s1954	4·89%	of outlets accounted for 25%	of the business.



*Manitoba*

*1941	·6%	of outlets accounted for 33%	of the business.
*1951	5·3%	of outlets accounted for 35·5%	of the business.
s1954	5·3%	of outlets accounted for 33%	of the business.

*Ontario*

*1941	8·88%	of outlets accounted for 42·3%	of the business.
*1951	6·2%	of outlets accounted for 49%	of the business.
s1954	6·2%	of outlets accounted for 53%	of the business.

*Quebec*

*1941	2·27%	of outlets accounted for 17·4%	of the business.
*1951	1·72%	of outlets accounted for 25·6%	of the business.
s1954	1·72%	of outlets accounted for 28%	of the business.

*New Brunswick*

*1941	1·6%	of outlets accounted for 8·6%	of the business.
*1951	·59%	of outlets accounted for 18%	of the business.
s1954	·59%	of outlets accounted for 19%	of the business.

*Nova Scotia*

*1941	3·88%	of outlets accounted for 17·3%	of the business.
*1951	2·5%	of outlets accounted for 18%	of the business.
s1954	2·5%	of outlets accounted for 19%	of the business.

\*Compiled from D.B.S. figures.

sCompiled from Estimated figures of Canadian Grocer.



## APPENDIX B

EXTRACTS FROM THE CRIMINAL CODE DEALING WITH  
TRADING STAMPS

335. (*New Code Section 322*) In this Part, unless the context otherwise requires,

- (x) "Trading stamps" includes, besides trading stamps commonly so-called any form of cash receipt, receipt, coupon, premium ticket or other device, designed or intended to be given to the purchaser of goods by the vendor thereof or his employee or agent, and to represent a discount on the price of such goods or a premium to the purchaser thereof, which is redeemable either
  - (i) by any person other than the vendor, or the person from whom he purchased the goods, or the manufacturer of the goods, or
  - (ii) by the vendor, or the person from whom he purchased the goods, or the manufacturer of the goods, in cash or goods not his property, or not his exclusive property, or
  - (iii) by the vendor elsewhere than in the premises where such goods are purchased;or which does not show upon its face the place of its delivery and the merchantable value thereof, or is not redeemable at any time;

2. An offer, printed or marked by the manufacturer upon any wrapper, box or receptacle, in which goods are sold, of a premium or reward for the return of such wrapper, box or receptacle, to the manufacturer, is not a trading stamp within the meaning of this Part.

505. (*New Code Section 369*) Every one is guilty of an indictable offence and liable to one year's imprisonment, and to a fine not exceeding five hundred dollars, who by himself or his employee or agent, directly or indirectly, issues, gives, sells or otherwise disposes of, or offers to issue, give, sell or otherwise dispose of trading stamps to a merchant or dealer in goods for use in his business.

2. Every one is guilty of an indictable offence and liable to six months' imprisonment, and to a fine not exceeding two hundred dollars, who, being a merchant or dealer in goods, by himself or his employee or agent, directly or indirectly, gives or in any way disposes of, or offers to give or in any way dispose of, trading stamps to a purchaser from him or of any such goods.

3. Any executive officer of a corporation or company guilty of an offence under subsections one and two of this section who in any way aids or abets in or counsels or procures the commission of such offence, is guilty of an indictable offence and liable on conviction to the punishment provided by the said subsections respectively.

4. Every one is guilty of an offence and liable, on summary conviction, to a fine not exceeding twenty dollars, who, being a purchaser of goods from a merchant or dealer in goods, directly or indirectly receives or takes trading stamps from the vendor of such goods or his employee or agent.